

Fresno, California

January 27, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

|          |                   |                          |
|----------|-------------------|--------------------------|
| Present: | Oliver Baines III | Councilmember            |
|          | Andreas Borgeas   | Councilmember            |
|          | Clinton Olivier   | Acting Council President |
|          | Sal Quintero      | Councilmember            |
|          | Larry Westerlund  | Councilmember            |
|          | Blong Xiong       | Councilmember            |
|          | Lee Brand         | Council President        |

Mark Scott, City Manager  
Bruce Rudd, Assistant City Manager  
Jim Sanchez, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Pastor Jerome Jackson of Christian Community Church gave the invocation, and President Brand led the Pledge of Allegiance.

**RESOLUTION OF COMMENDATION TO JOHN TEXEIRA FOR 50 YEARS OF SERVICE AS A HOUSING AUTHORITY BOARD MEMBER**

Laid over one week.

**PROCLAMATION OF "SCHOOL BOARD RECOGNITION MONTH"**

Read and presented.

**PRESENTATION OF P.R.I.D.E. TEAM CERTIFICATES FOR THE WINTER QUARTER**

Employees honored were: Ronald Riley of the Airports Department; Sarah Nunez of the City Attorney's Office; Evangelina Flores and McKencie Contreras of the DARM Department; Yolanda Smith of the Finance Department; Gerry Rodriguez, Jo-Ella Garcia and Barbara Bixman of the Fire Department; Ronald Farwell of Fresno Area Express; Don Robbins of the Information Services Department; Megan Dowdy of the Personnel Services Department; Mindy Casto, Scott Payn, Richard Tacadena and David Dellone of the Police Department; Joan Kimura, Sandra Somora and Brad Hoagland of the Public Utilities Department; and Renee Genett, Cher Yang and Tim Smith of the Public Works Department. A reception was held immediately following.

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**RECESS – 9:09 A.M. – 9:22 A.M.**

**APPROVE MINUTES OF JANUARY 13, 2011**

Councilmember Westerlund made a correction but the correction related to the minutes of the January 20, 2011, special joint meeting of the Redevelopment Agency, COFCAP and City Council. The dollar amount on page 2 relative to the city of Los Angeles' Cooperation Agreement was changed from \$93 million to **\$930 million**.

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the minutes of January 13, 2011, approved as submitted.

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## **COUNCIL MEMBER REPORTS AND COMMENTS:**

Councilmember Westerlund advised (1) Agency Executive Director Murphey's Mother passed away on Tuesday and stated prayers were with her and he would advise of services; and (2) the HCDC did not meet Wednesday as scheduled due to lack of a quorum and spoke briefly to items calendared for consideration and stated given what the city is facing with the state the HCDC meetings being cancelled due to the lack of a quorum was an issue.

Councilmember Baines reported on his participation yesterday with volunteers in the National Homeless Street and Shelter Point in Time Count Event.

Councilmember Xiong (1) thanked the city manager and staff for their continued work with Gen. Vang Pao's family on funeral arrangements and advised information was available at [www.gvpmemorial.com](http://www.gvpmemorial.com) and expressed his hope that all members would be able to participate; and (2) presented questions relative to the HCDC including how it was established, appointments, function, and ability of the RDA to do its' job with the quorum issue, with City Attorney Sanchez, Councilmember Westerlund and City Manager Scott responding and clarifying issues. Mr. Sanchez stated his staff looked further into the HCDC process in light of some of the emergencies that came up the last couple of weeks with the RDA and advised there was the ability to move an item forward to the RDA Board if it is not considered by the HCDC within the 30 day time period.

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## **APPROVE AGENDA:**

(10:00 A.M.) HEARING ON PLAN AMENDMENT APPLICATION NO. A-10-08 AND SPHERE OF INFLUENCE APPLICATION NO. SOI-10-001 FILED BY DIRK POESCHEL AND ASSOCIATES ON BEHALF OF SANDERS PROPERTIES, LLC, PROPERTY LOCATED ON THE SOUTH SIDE OF E. SHAW AVENUE WEST OF N. WINERY ABUTTING THE SR 168 NORTHBOUND OFF-RAMP (Continue to March 3, 2011, at 10:15 a.m.)

Continued as noted.

(1-H) RESOLUTION - 68<sup>TH</sup> AMENDMENT TO AAR NO. 2010-138 APPROPRIATING \$129,000 IN THE PARCS DEPARTMENT FROM A GRANT RECEIVED FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (REMOVE II PROGRAM) FOR DEVELOPMENT OF A PARK-AND-RIDE LOT AT MARTIN RAY REILLY PARK

Removed from the agenda by staff. After the following item Acting President Olivier presented questions relative to who was removing the item and when issues would be resolved, and requested he be kept in the loop, with ACM Rudd responding.

(10:15 a.m. 'C') **JOINT MEETING OF THE REDEVELOPMENT AGENCY AND COFCAP** - AUTHORIZE THE EXECUTIVE DIRECTOR TO CONTRACT WITH ROSENOW SPEVACEK GROUP (RSG) TO PREPARE AN AMENDMENT TO THE CENTRAL CITY COMMERCIAL REVITALIZATION REDEVELOPMENT PROJECT AREA PLAN, THE SOUTHEAST FRESNO REDEVELOPMENT AREA, AND THE SOUTH FRESNO INDUSTRIAL REDEVELOPMENT PROJECT AREA (Agency action)

Removed from the agenda by staff.

**(2 – 0)** On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand |
| Noes   | : | None   |
| Absent | : | None   |

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## **ADOPT CONSENT CALENDAR:**

Sandra Brock spoke in support of Item **1-L** and urged approval, and requested better advanced notice be given for employees the next time a substantial change is proposed.

Councilmember Westerlund removed Item **1-J** from the Consent Calendar for separate discussion/action.

**(1-A) RESOLUTION NO. 2011-9 - DEDICATING CERTAIN CITY-OWNED PROPERTY FOR PUBLIC STREET PURPOSES AT THE T-3 WATER STORAGE AND TREATMENT FACILITY ON THE NORTH SIDE OF E. DAKOTA AVENUE BETWEEN N. ARMSTRONG AND N. TEMPERANCE AVENUES**

**(1-B) APPROVE THE PARTIAL ACQUISITION OF ONE STREET EASEMENT NECESSARY FOR THE PLACEMENT OF NEW TRAFFIC SIGNALS AT THE INTERSECTION OF FIRST STREET AND DAKOTA AVENUE FROM PROPERTY OWNER AMNIVEST, LLC, FOR THE APPRAISED VALUE OF \$1,500**

**#1 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION**

**(1-C) ACTIONS RELATING TO INSTALLATION OF TRAFFIC SIGNALS AT THE INTERSECTION OF CLOVIS AVENUE AND KINGS CANYON ROAD AND ACQUISITION OF ONE PARCEL FOR THE WIDENING OF CLOVIS AND KINGS CANYON WITH A WEST BOUND RIGHT-TURN LANE AT KINGS CANYON ROAD**

**#1 ADOPT FINDINGS OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITIES AND IN-FILL DEVELOPMENT)**

**#2 APPROVE THE PARTIAL ACQUISITION OF ONE PUBLIC STREET EASEMENT NECESSARY FOR THE WIDENING FROM PROPERTY OWNED BY RICHARD M. ASHODIAN, TRUSTEE, IN THE AMOUNT OF \$26,000**

**#3 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION**

**(1-D) ACTIONS RELATING TO THE INSTALLATION OF TRAFFIC SIGNALS AT THE INTERSECTION OF CLOVIS AVENUE AND KINGS CANYON ROAD AND ACQUISITION OF ONE PARCEL FOR WIDENING OF THE INTERSECTION WITH A RIGHT-TURN LANE AT THE NORTHEAST CORNER**

**#1 ADOPT FINDINGS OF A CEQA CATEGORICAL EXEMPTION (EXISTING FACILITIES AND IN-FILL DEVELOPMENT)**

**#2 APPROVE THE PARTIAL ACQUISITION OF ONE PUBLIC STREET EASEMENT NECESSARY FOR THE WIDENING OF THE INTERSECTION FROM PROPERTY OWNED BY WILLS ENTERPRISES, L.P. IN THE AMOUNT OF \$500.00**

**#3 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION**

**(1-E) APPROVE THE SECOND AMENDMENT TO THE AGREEMENT WITH WEST YOST ASSOCIATES TO ADD ADDITIONAL HYDRAULIC ANALYSES, UTILITY SURVEY MITIGATED NEGATIVE DECLARATION AND ELECTRICAL DESIGN SERVICES AND DELETE TRAFFIC CONTROL DESIGN WITH PARTS 1 THROUGH 6 OF THE AGREEMENT FOR THE TWO LARGE DIAMETER WATER TRANSMISSION MAINS IN NORTHEAST AND SOUTHWEST FRESNO**

**#1 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE SECOND AMENDMENT ON BEHALF OF THE CITY**

**(1-F) APPROVE THE PARTIAL ACQUISITION OF ONE PUBLIC STREET EASEMENT NECESSARY FOR THE WIDENING OF HERNDON AVENUE TO SIX LANES BETWEEN MARKS AND VALENTINE AVENUES FROM PROPERTY OWNED BY CITIBANK, N.A., AT 7025 N. MARKS, FOR THE APPRAISED VALUE OF \$25,000**

**#1 AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN ALL DOCUMENTS NECESSARY TO COMPLETE THE TRANSACTION**

**(1-G) APPROVE REQUEST OF PIPENOLOGY INCORPORATED TO SUBSTITUTE PSC INDUSTRIAL OUTSOURCING AND UTILIZE NOR-CAL PIPELINE SERVICES TO PERFORM THE SEWER CLEANING AND DISPOSAL OF MATERIALS PORTION OF THE WORK ON THE SEWER REHABILITATION IN N. WEBER, S. EAST AND N. SIERRA VISTA AVENUES**

**(1-I) APPROVE A PROFESSIONAL CONSULTING SERVICES AGREEMENT WITH C&S ENGINEERS, INC., IN THE AMOUNT OF \$140,693 TO DEVELOP AN AIRPORT SUSTAINABILITY MANAGEMENT PLAN FOR THE FRESNO YOSEMITE INTERNATIONAL (FYI) AIRPORT, AND AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE THE AGREEMENT**

**(1-K)** APPROVE APPOINTMENTS OF MATTHEW WHITE TO THE BICYCLE AND PEDESTRIAN ADVISORY COMMITTEE, AND NICHOLAS WEBBER TO THE CHARTER REVIEW COMMITTEE – COUNCILMEMBER BORGEAS

**(1-L)** BILLS FOR ADOPTION AMENDING VARIOUS RETIREMENT SECTIONS OF THE FRESNO MUNICIPAL CODE TO ENHANCE COMPLIANCE WITH THE INTERNAL REVENUE CODE BY THE FIRE & POLICE AND EMPLOYEES' RETIREMENT SYSTEMS TO MAINTAIN THE SYSTEMS' TAX DEFERRED STATUS

**#1 BILL NO. B-1 – ORDINANCE NO. 2011-1** - FIRE AND POLICE RETIREMENT SYSTEM

**#2 BILL NO. B-2 – ORDINANCE NO. 2011-2** - EMPLOYEES' RETIREMENT SYSTEM

**(1-M) BILL NO. B-3** - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE TO COMPLY WITH THE SETTLEMENT REACHED BETWEEN ACTIVE AND RETIRED CITY EMPLOYEES RELATING TO THE CLARIFICATION OF COMPENSATION ISSUES FOR THE EMPLOYEES RETIREMENT SYSTEM

On motion of Councilmember Xiong, seconded by Councilmember Baines, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand |
| Noes   | : | None   |
| Absent | : | None   |

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**CONTESTED CONSENT CALENDAR:**

**(1-J) RESOLUTION NO. 2011-10** - 66<sup>TH</sup> AMENDMENT TO AAR NO. 2010-138 APPROPRIATING \$101,800 IN THE GENERAL SERVICES DEPARTMENT/CENTRAL PRINTING TO PROVIDE FUNDS NEEDED FOR ONGOING USE AND PAYMENT OF THE CITY'S IN-HOUSE COST PER COPY PROGRAM

Noting the financial condition of the city Councilmember Westerlund presented questions and comments relative to who was responsible for monitoring the use of copiers, what type of review is done to insure wise spending, who monitors the use at the department level, and how active the monitoring was, with Purchasing Manager McDonald and ACM Rudd responding and clarifying issues.

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, **RESOLVED**, the above entitled Resolution No. 2011-10 hereby adopted, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand |
| Noes   | : | None   |
| Absent | : | None   |

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**CLOSED SESSION** – CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION – CASE NAME: COF V. FRESNO PALM LAKES, ET AL.

The City Council met in closed session in Room 2125 at the hour of 9:41 a.m. to consider the above matter and reconvened in open session at 9:59 a.m. Councilmembers Baines, Olivier and Quintero arrived shortly thereafter.

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**(9:45 A.M. #1-A)** APPROVE ANNUAL UPDATE OF PRIORITY RANKING LISTS FOR NEW TRAFFIC SIGNAL INSTALLATIONS, TRAFFIC SIGNAL LEFT-TURN PHASING, AND INTERSECTION TRAFFIC FLOW IMPROVEMENTS

Traffic Engineer Jones gave a brief overview and recommended approval, all as contained in the staff report as submitted.

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the Updated City-wide priority ranking lists for new traffic signal installations, traffic signal left turn phasing and intersection traffic flow improvements hereby approved, by the following vote:

Ayes : Borgeas, Xiong, Westerlund, Brand  
Noes : None  
Absent : Baines, Olivier, Quintero

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Councilmembers Baines and Olivier arrived at 10:01 a.m.

**(9:45 A.M. #1-B)** APPROVE A PROFESSIONAL CONSULTING SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., IN THE AMOUNT OF \$1,591,000 TO PROVIDE CIVIL ENGINEERING CONSULTING SERVICES FOR THE REHABILITATION, WIDENING AND LENGTHENING OF RUNWAY 11R/29L AT THE FYI AIRPORT

Airports Planning Manager Meikle gave a PowerPoint presentation entitled “2011-2015 Airfield Development Program” which consisted of Part 1 – Runway 29L/11R, Runway Visual, Part 2 – Runway 29R/11L RSA, Completed Airfield Development – 2015, and Anticipated Future Council Actions. Councilmember Quintero arrived at 10:03 a.m. during the presentation.

Upon questions of Councilmember Westerlund Mr. Meikle confirmed the 95% FAA funding and 5% Measure C match and stated the extension would not help with the fog/delayed flights and explained. Councilmember Westerlund made a motion to approve staff’s recommendation. Mr. Meikle and Aviation Director Widmar responded to questions of Councilmembers Quintero and Baines relative to whether a longer runway would attract larger airplanes and what it would take to attract more airlines.

On motion of Councilmember Westerlund, seconded by Councilmember Baines, duly carried, RESOLVED, the Director of Aviation authorized to execute a consulting services agreement with Kimley-Horn and Associates, Inc., as outlined above, by the following vote:

Ayes : Baines, Borgeas, Olivier Quintero, Westerlund, Xiong, Brand  
Noes : None  
Absent : None

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**(9:45 A.M. #1-C)** APPROVE A PROFESSIONAL CONSULTING SERVICES AGREEMENT WITH DALE RUTHERFORD, AIA, IN THE AMOUNT OF \$498,000, TO PROVIDE DESIGN AND CONSTRUCTION ADMINISTRATION FOR THE ACOUSTIC TREATMENT OF 150 HOMES PARTICIPATING IN THE ONGOING FYI SOUND MITIGATION ACOUSTICAL REMEDY TREATMENT (SMART) PROGRAM

Airports Planning Manager Meikle gave a PowerPoint presentation entitled “Sound Mitigation Acoustical Remedy Treatment (SMART) Program” which consisted of FAA Part 150 - Noise Compatibility Program, Current Noise Exposure Map, and 2011 Program.

Councilmember Westerlund commented on the issue and presented questions relative to the effectiveness of the program and awards, name/location of the sixth school being treated, and noise issues/747s/F-15s, with Mr. Meikle and Aviation Director Widmar responding.

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the Director of Aviation authorized to execute a consulting services agreement with Dale Rutherford, AIA as outlined above, by the following vote:

Ayes : Baines, Borgeas, Olivier Quintero, Westerlund, Xiong, Brand  
Noes : None  
Absent : None

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**(9:45 A.M. #1-D) SUBMISSION FOR INFORMATIONAL PURPOSES OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORTS (“CAFRs”) REGARDING THE FINANCIAL ACTIVITIES OF THE CITY’S RETIREMENT SYSTEMS FOR THE FISCAL YEAR ENDING JUNE 30, 2010**

Retirement Administrator McDivitt reviewed the issue, all contained in the staff report and CAFRs as submitted. A motion and second was made to accept the reports. Mr. McDivitt responded to questions of Councilmember Westerlund and President Brand relative to when the report/recommendations of the Pension Task Force would be brought forth, market strength and sustaining growth, allowing states to go into a bankruptcy-type of legal action and what the city’s exposure would be to state bonds, **(3 – 0)** and return percentages. President Brand commended Mr. McDivitt and the retirement boards for doing a great job on the systems and by Council consensus the reports were accepted as submitted.

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**(9:45 A.M. #2-A) COUNCIL REPORTS/COMMUNICATIONS ON ASSIGNMENTS TO BOARDS AND COMMISSIONS:**

**#1 COUNCIL OF GOVERNMENTS (COG) - SWEARENGIN, XIONG-EX-OFFICIO/ALTERNATE  
COUNCIL SUB-COMMITTEE TASK FORCE FOR WATER (WATER TASK FORCE/LIMITED AD HOC) - BORGEAS, BRAND, VACANT  
FINANCIAL AUDIT COMMITTEE - BORGEAS, BRAND, XIONG  
FRESNO AREA WORKFORCE INVESTMENT CORPORATION - WESTERLUND  
FRESNO COUNTY COUNCIL OF GOVERNMENT’S RAIL CONSOLIDATION COMMITTEE - XIONG  
FRESNO COUNTY TRANSPORTATION AUTHORITY (FCTA) - SWEARENGIN, BORGEAS  
FRESNO REGIONAL WORKFORCE INVESTMENT BOARD - WESTERLUND  
FRESNO COUNTY ZOO AUTHORITY - SWEARENGIN, WESTERLUND-ALTERNATE  
FRESNO-MADERA AREA AGENCY ON AGING BOARD - VACANT  
JOINT POWERS FINANCING AUTHORITY - WESTERLUND  
LEADERSHIP COUNCIL ON ENDING HOMELESSNESS – BRAND, VACANT, WESTERLUND  
PUBLIC SAFETY JOINT POWERS AUTHORITY (Terminated?) – SWEARENGIN  
SAN JOAQUIN RIVER CONSERVANCY BOARD - SWEARENGIN, BRAND-ALTERNATE  
THE ASSOCIATION FOR THE BEAUTIFICATION OF HIGHWAY 99 - VACANT  
UPPER KINGS BASIN INTEGRATED REGIONAL WATER MANAGEMENT JPA - BORGEAS  
PENSION REFORM TASK FORCE - BORGEAS, BRAND, XIONG**

**#2 ECONOMIC DEVELOPMENT CORPORATION SERVING FRESNO COUNTY – BORGEAS-EX-OFFICIO  
FRESNO CITY & COUNTY CONVENTION & VISITORS BUREAU (FCVB) – SWEARENGIN, VACANT  
LEAGUE OF CALIFORNIA CITIES (ANNUAL MEETING) – SWEARENGIN, BORGEAS-ALTERNATE**

**#3 CITY COUNCIL APPOINTMENTS, REAPPOINTMENTS, REMOVALS TO/FROM CITY AND NON-CITY BOARDS AND COMMISSIONS**

President Brand stated he scheduled this item to get members up to date on the committees and determine interest in serving going forward, noted the mayor submitted her alternates in writing (Councilmember Westerlund for the San Joaquin River Conservancy Board, Councilmember Borgeas for COG, Councilmember Baines for the Zoo Authority, and Councilmember Xiong for the League of California Cities), and each committee on the list was addressed as follows:

COUNCIL OF GOVERNMENTS (COG): Mayor Swarengin, with Councilmember Borgeas as alternate.

COUNCIL SUB-COMMITTEE TASK FORCE FOR WATER (WATER TASK FORCE – LIMITED AD HOC): Suspended

FINANCIAL AUDIT COMMITTEE: President Brand appointed himself Chair, with Councilmembers Borgeas and Xiong continuing as members. President Brand noted Councilmember Xiong would serve until July 1<sup>st</sup> wherein Acting President Olivier would take his place. Upon the recommendation of Councilmember Borgeas it was determined Acting President Olivier would replace Councilmember Xiong sometime in the summer when the committee’s current work is completed.

FRESNO AREA WORKFORCE INVESTMENT CORP: President Brand appointed (automatic as Council President).

FRESNO COUNTY COG RAIL CONSOLIDATION COMMITTEE: Suspended, with Councilmember Xiong to make a formal request to the committee.

FRESNO COUNTY TRANSPORTATION AUTHORITY: Mayor Swearengin and member of the city council (currently Councilmember Borgeas. On motion of President Brand, seconded by Councilmember Quintero, Councilmember Borgeas reappointed to a two-year term unanimously.

FRESNO COUNTY ZOO AUTHORITY: Mayor Swearengin, with Councilmember Baines alternate.

FRESNO REGIONAL WORKFORCE INVESTMENT BOARD: President Brand appointed (automatic).

FRESNO MADERA AREA AGENCY ON AGING: On motion of Councilmember Quintero, seconded by President Brand, Acting President Olivier appointed to the FMAAA unanimously.

JOINT POWERS FINANCING AUTHORITY: President Brand appointed (automatic).

LEADERSHIP COUNCIL ON ENDING HOMELESSNESS: On motion of President Brand, seconded by Councilmember Xiong, Councilmember Baines appointed to the Homelessness Council unanimously.

PUBLIC SAFETY JOINT POWERS AUTHORITY: President Brand appointed (automatic). Councilmember Westerlund stated he received communication back from Fresno County, advised they indicated they were willing to meet under some conditions, and stated he would provide the correspondence to Council so a determination could be made.

SAN JOAQUIN RIVER CONSERVANCY: Mayor Swearengin, with Councilmember Westerlund alternate.

THE ASSOCIATION FOR THE BEAUTIFICATION OF HIGHWAY 99: On motion of President Brand, seconded by Acting President Olivier, Councilmember Baines appointed to the Highway 99 Beautification committee unanimously.

UPPER KINGS BASIN INTEGRATED REGIONAL WATER MANAGEMENT JPA: Councilmember Borgeas continuing, with PUD Director Ramirez as alternate.

PENSION REFORM TASK FORCE: President Brand, Councilmember Borgeas and Councilmember Xiong to continue, with the committee to conclude in about one month after providing a report to Council.

ECONOMIC DEVELOPMENT CORP. (EDC): Councilmember Borgeas ex-officio member for one more year.

FRESNO CITY & COUNTY CONVENTION & VISITORS BUREAU: (Mayor Swearengin, vacant). Staff to provide information to Council on changes before termination decision is made.

LEAGUE OF CALIFORNIA CITIES (LCC): Mayor Swearengin, with Councilmember Xiong alternate.

With updates/appointments made there was no further discussion.

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#### **(9:45 A.M. #2-B) STATUS REPORT ON THE CHARTER REVIEW COMMITTEE – PRESIDENT BRAND**

President Brand reminded Council each member had one appointment to the committee and the mayor had two adding they must reside within Fresno county. Councilmember Borgeas noted his appointee was on the Consent Calendar this date and advised appointments were due by January 31<sup>st</sup> and they did not have to go before Council for a vote. President Brand stated this would probably be a six-month committee meeting twice a month who would consider some important Charter issues. Councilmember Quintero requested an updated list on the previous item, along with general criteria for the Charter Review Committee to provide to potential appointees. Councilmember Borgeas stated it was his intent to have one meeting to get everyone assembled and have members elect a chair and vice chair and create a process and layout on the number of times they want to meet, adding general guidance would be given to the committee on how to proceed for maximum efficiency. There was no further discussion.

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**(9:45 A.M. #2-C) BILL NO. B-4 - BILL FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO COUNCIL DISTRICT PLAN IMPLEMENTATION COMMITTEES – COUNCILMEMBER BORGEAS**

Councilmember Borgeas reviewed the issue, all as contained in his report to Council as submitted, and made a motion to introduce the ordinance, which motion was seconded by Councilmember Baines. Councilmember Borgeas and City Attorney Sanchez responded to questions of Councilmember Xiong relative to how a committee suspension would be implemented and if it would be up to each council member to implement. Councilmember Xiong stated he wanted some engagement with his district implementation committee before approving the amendment adding moving forward on it would impact the committee in certain ways and he wanted their input first, with Councilmember Borgeas responding. Acting President Olivier commented on the issue and stated he would support the amendment as his committee had been somewhat of a strain on District 7 resources. Councilmember Quintero spoke to how SEGA and other specific plans will impact the entire city and upon his question Councilmember Borgeas stated any committees that are suspended can be called back and reactivated at any time. President Brand commented briefly and expressed his support.

On motion of Councilmember Borgeas, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Bill No. B-4 introduced before the City Council and laid over, by the following vote:

|        |   |   |
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| Ayes   | : | Baines, Borgeas, Olivier, Quintero, Westerlund, Brand |
| Noes   | : | Xiong   |
| Absent | : | None  |

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**(10:15 A.M.) JOINT MEETING OF THE REDEVELOPMENT AGENCY (RDA) AND THE CITY OF FRESNO CULTURAL ARTS PROPERTIES, INC. (COFCAP)**

The City Council recessed at 11:10 a.m. and the RDA and COFCAP convened in joint session.

**APPROVE AGENCY MINUTES OF JANUARY 6, 2011**

On motion of Vice Chair Olivier, seconded by Member Quintero, duly carried, RESOLVED, the Agency minutes of January 6, 2011, approved as submitted.

**APPROVE AGENCY AND COFCAP SPECIAL MEETING MINUTES OF JANUARY 20, 2011, AS CORRECTED**

On motion of Member Westerlund, seconded by Member Xiong, duly carried, RESOLVED, the January 20, 2011, special meeting minutes of the RDA and the COFCAP approved, as amended earlier in the meeting by Member Westerlund, correcting the dollar amount on page 2 relative to the city of Los Angeles' Cooperation Agreement from \$93 million to \$930 million.

**(‘A’) ADOPT CEQA FINDING OF A CATEGORICAL EXEMPTION FOR DEMOLITION OF INDIVIDUAL SMALL COMMERCIAL STRUCTURES ON SITES ZONED FOR COMMERCIAL USE**

**#1 AWARD A CONTRACT FOR DEMOLITION AND CLEARANCE OF BUILDINGS LOCATED AT FULTON AND STANISLAUS STREETS, 1502-1540 FULTON STREET, BUILDINGS A, B & C, WITH A DEDUCTIVE ALTERNATIVE FOR BUILDING C (Joint Agency and COFCAP action)**

Project Manager Quiring reviewed the issue and recommended approval, all as contained in the staff report as submitted.

Speaking to the issue were: Chris Johnson of Johnson Architecture, member of the Historic Preservation Commission, who displayed photos of a Firestone building in Sacramento that was renovated into a California Pizza Kitchen, explained details of the building, and spoke in support of maintaining and reutilizing these types of buildings; and Bruce Odem, 5250 N. Palm, downtown property owner, who questioned if there was a positive proposal for the site and spoke in opposition to the demolition and to the need for additional environmental review and explained.

Upon the recommendation of Chair Westerlund City Attorney Sanchez stated staff would meet with Mr. Odem on the potential issues he spoke to. Mr. Sanchez added he was satisfied with staff's report which identified the authority and discretion the joint bodies had with this matter in terms of historic resource, with Chair Westerlund concurring.

On motion of Chair Westerlund, seconded by Member Brand, duly carried, RESOLVED, the finding of a CEQA categorical exemption hereby adopted, and a contract awarded to Bowen Engineering for the demolition of commercial structures as outlined above, by the following vote:

Ayes : Baines Borgeas, Brand, Olivier, Quintero, Xiong, Westerlund  
Noes : None  
Absent : Swearingin (COFCAP member)

**(‘B’)** AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO A PURCHASE AND SALE AGREEMENT FOR PROPERTY AT 1270 N. ABBY OWNED BY RODRIGO SANDATE SAUCEDO AND MARIA SANDATE, AND TAKE ALL OTHER ACTIONS NECESSARY AND CONSISTENT WITH AGENCY BOARD APPROVAL (Agency action)

Project Manager Quiring reviewed the issue and recommended approval, all as contained in the staff report as submitted. Member Quintero left the meeting at 11:22 a.m. A motion and second was made to approve staff’s recommendation. Upon question of Member Brand Mr. Quiring stated staff was comfortable with the \$220,000 appraisal and the appraiser did conduct extensive comparisons in the area.

On motion of Vice Chair Olivier, seconded by Member Baines, duly carried, RESOLVED, the Executive Director authorized to enter into a Purchase and Sale Agreement as outlined above and take all necessary actions, by the following vote:

Ayes : Baines, Borgeas, Brand, Olivier, Xiong, Westerlund  
Noes : None  
Absent : Quintero

Mr. Quiring clarified the \$220,000 appraisal price in the staff report was correct and advised the \$225,000 price in the agreement would be changed to \$220,000.

At this point Chair Westerlund noted the correction he made to the minutes at the beginning of the meeting was to the January 20, 2011, special joint meeting of the Redevelopment Agency, COFCAP (and City Council).

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The joint bodies adjourned their meeting at 11:25 a.m. and the City Council reconvened in regular session.

#### **RECESS – 11:25 A.M. – 3:03 P.M.**

**(3:00 P.M.)** PUBLIC PROTEST HEARING IN ACCORDANCE WITH CHARTER SECTION 1301 AND APPROVAL OF ITEMS RELATED TO THE GRANTING OF FRANCHISES TO MID VALLEY DISPOSAL AND ALLIED WASTE

**#1 BILL - BILL FOR INTRODUCTION GRANTING TO ALLIED WASTE AND MID VALLEY DISPOSAL EXCLUSIVE FRANCHISES OF SPECIFIC PORTIONS OF THE CITY OF FRESNO FOR THE COLLECTION OF MULTI-FAMILY AND COMMERCIAL SOLID WASTE, RECYCLABLE MATERIALS, AND ORGANIC MATERIALS WITHIN THE CITY (Failed)**

**#2 AUTHORIZE THE CITY MANAGER TO FINALIZE NEGOTIATIONS AND EXECUTE CONTRACTS WITH ALLIED WASTE AND MID VALLEY, SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY AND CONTINGENT UPON ADOPTION OF SUBJECT ORDINANCE**

President Brand announced the time had arrived to consider the issue and opened the hearing. City Attorney Sanchez advised of the procedural process that would be followed for this required public hearing, and addressed the conflict issues raised stating staff received conflict questions related to three council members and advised after conducting investigations no evidence was found of material financial interest that would disqualify any council member from participating in the franchise and decisions.

Speaking to the issue were: Eric Wardwell **(4 – 0)** who stated privatization should also be done for residential if it is going to be done at all, and expressed concerns with commercial alley dumpsters and city employees losing their jobs; Richard Martinez, 1542 E. Alluvial, who spoke in opposition to the franchise proposal; Joseph Hill, 72 Whittier, Clovis, opposed; Roosevelt DeLeon, 3210 W. Alamos, opposed, who also submitted a signature petition opposing franchising; and Tate Hill, Fresno Metro Black Chamber of Commerce, who spoke to the need to support local small and minority businesses and offered recommendations/mandates if a decision is made to privatize, all as contained in his written letter submitted.

Continued speakers were: Howard Watkins, 1785 W. Dovewood Lane, who spoke to city priorities, tax cuts/rates/burdens, and state/national priorities/politics, and stated city workers should not bear the brunt of reduced government. Marina Magdaleno, 839 N. Fulton, business representative for Operating Engineers Local 39, spoke in opposition to the franchise proposal. Lori Nakaguchi, 10585 N. Pierpont Circle, Susan Brown, 2411 N. Maroa, Jon Warra, 4645 N. 4<sup>th</sup> Street, and Rick Deming, 1682 E. Fallbrook, all spoke in support of the proposal. John Veen, 839 N. Fulton, spoke in opposition; Steve Brandau, Cindy Barbanell, 2932 Morris, Becky Kellam, Carol Streit, 1917 E. Richmond, and Linda Swanson, 5060 N. Sixth, all spoke in support. Louis Pfeifer, 1903 E. Simpson, and Rene Ponce, 3110 W. Norwich, both spoke in opposition (**5 – 0**). Janice Kroger, 5070 N. Sixth spoke in support. Dave Calhoun, who also submitted written information into the record on Stockton's and Fresno's rates, and Rebeca Garcia, FCEA President representing FCEA members, both spoke in opposition. Robert Kolstad, small business owner, and Sandy Forbes both spoke in support; and Rusty, homeless, said a prayer.

Continued speakers were: Sue Deming, support; Erika Leyva, 1325 El Dorado, opposed; Daniel Santos, opposed; Billie Jane Houston, support; Wendy Bellau, 1434 N. Thorne, support; Adam Madrigal, opposed; Al Smith, President/CEO of the Fresno Chamber of Commerce, support; Carol Maul, 305 W. Bullard, opposed; and Dana Smith, opposed. Brunette Harris, HEAT for Southwest Fresno, stated she questioned the city's financial condition citing all the building activity that is occurring, and presented questions and concerns on the franchise proposal. Danny Drake and Max (last name inaudible) both spoke in opposition.

Upon call, no one else wished to be heard and President Brand closed the public hearing.

Councilmember Westerlund elaborated on the issue at length and expressed his support for franchising stressing the numbers were real and clear, waste collection was an expensive function that did not have to be done by the city, options were limited, and hundreds of city employees had already been laid off on the general fund side (**6 – 0**). Councilmember Westerlund stated if this fiscally responsible step is not taken the general fund will be hit again to the tune of \$2.5+ million and another 62 general fund employees will be laid off, and emphasized this was about the fiscal health of the city organization and implored Council to make the fiscally responsible decision.

Councilmember Borgeas stated the Fresno two years ago when he took office was not the Fresno today, spoke to how the question "what is a core service?" comes up every budget cycle and stated solid waste collection was a service that could be performed by the private sector, and elaborated further and expressed his support for the franchise proposal and stated it breaks his heart to lay off another employee but the reality was funds were not there, there was no other option, Council had to look after all the taxpayers versus taking care of one segment, and franchising was a step in the right direction.

Acting President Olivier spoke to elected officials abandoning core principles and voting for well intentioned but flawed legislation due to public pressure, stated he was told this proposal was not perfect but he should vote for it anyway and added regrettably he felt this important issue had moved from the realm of economics into the realm of politics with the focus being on winning or losing, added Council had been told this move made sense for the ratepayer, the taxpayer and the general fund and would be a huge step towards solving the city's budget woes but he disagreed with that, stated he would be voting 'no' and explained his reasons therefore, and further elaborated on the issue and stated he was concerned this was being sold as a cure-all, the size of this government would continue to shrink, if outsourcing is approved this date the city will still be millions of dollars short both this fiscal year and the next, and he would vote his conscience and not support this.

Councilmember Xiong stated if solid waste was part of the general fund there would be no talk about "core functions", he was confused when this was brought up as he thought efficiencies, effectiveness and comparisons would be evaluated, he always asked for options during budget hearings, he was always opposed to the way this proposal was broached to the employees, there was never a way for him to justify why this effort was not discussed openly, and open policy discussions should have taken place so he could have felt more comfortable making the hard decisions instead of relying on experts to tell Council what was best, and elaborated further and stated his position had not changed and he would vote 'no'.

Councilmember Westerlund made a motion introduce the ordinance bill and authorize final negotiations as recommended by staff and outlined above, which motion was seconded by President Brand.

Councilmember Baines thanked the mayor and administration for the time given to him to study the issue and for opening up the books; acknowledged this was a grave situation and commented on the issue at length including reasons for privatization, his initial concerns that there will be no general fund savings with privatization and it being unproven that a private entity can provide better service, solid waste being an award-winning division, the Utility Advisory Commission's opposition to franchising, the dire

(7 – 0) need for money/revenues, the normal rationale for privatization not meeting the standards, this never being about jobs to him but about the budget and the efficiency of how the city operates, his attempt to find alternatives to fill the gap but coming nowhere close, and to the city being in this situation due to a decade of mismanagement; stated he came to the conclusion that the structure and culture of city government had to change and elaborated on the need to ensure the city is running as efficiently as possible, on the need for everyone to be a part of the solution, on the need for labor to come to the table and make some serious concessions, on franchising being irrelevant to what the city has to do in the coming months, and to the need for everyone to sacrifice and handle the deficiencies in city government; and stated he would not support outsourcing as he did not think it was enough and added he would be calling on solid waste first to work together.

Councilmember Quintero thanked staff for meeting with him and stated the numbers were sobering and a reality; stated he posed a question long ago to former council member/mayor Ted C. Wills about how to vote when both sides are right and was told to listen to both sides and thank them, ask yourself what is best for the entire city and if you will be comfortable with your decision, then pray that your decision is the best and if you are comfortable with it and it came from your heart you will be ok with yourself; thanked everyone for their conversations with him and presenting their points of view and stated he would not be supporting the franchise proposal as solid waste was already a nationally-recognized department and thanked management and the employees out on the street for doing a great job; and stated the bottom line was everyone's help would be needed, it was going to be painful going forward, and he looked forward to working together with employees and the business community to find solutions.

President Brand thanked everyone for their presence/and input and his council colleagues for their reflective and deep, heartfelt thoughts and opinions; spoke to the issue of exclusive versus non-exclusive model and elaborated at length on the exclusive model including his couple hundred hours spent looking at it, his findings, and his conclusion that it would produce lower prices; stated at the December 9<sup>th</sup> meeting he made an amendment which would reduce the costs by roughly \$1 million (reduce the rate by roughly 4%), noted Acting President Olivier brought up a good point the last time on the oversight cost, and stated he wanted to delete the motion he made at the December 9<sup>th</sup> Council meeting where he asked that the oversight expense and function be evaluated by the Council at the end of five years and made an amendment to the motion which he stated would further reduce the costs as follows: *\*At the end of six months of operation staff will evaluate the Contract Management and Enforcement Fee (pursuant to Draft Franchise Agreement, Article 10/Section 102 (B), page 58) function identified in the franchise agreement including an audit of costs by the Department of Finance. Based upon the review and audit Council shall have the option to (1) reduce the one and one quarter percent (1.25%) fee of the gross revenues amount allocated for Contract Management and Enforcement to a level deemed appropriate by the Council, and (2) move the responsibility of the Contract Management and Enforcement operations expense from the Department of Public Utilities operating account to the Commercial Solid Waste Enterprise Reserve Fund and have the option to rebate up to 100% of the actual operating costs to the vendors, with the express intent, and concurrence with the two private haulers, of reducing their costs and having a proportionate reduction in fees to commercial customers.* President Brand concluded stating too much time had been spent on this issue already, this had been very divisive for the city organization and the organization could not continue to function with that level of stress and anxiety, affected employees have been frozen with unanswered questions the last six months and it was not fair to them to continue this on, and he was convinced this was the best way to go and called for an up or down vote adding if the vote fails the matter will be over and the city organization will move on. Acting President Olivier thanked President Brand for his thoughtful analysis and work but stated he still respectfully disagreed with his position.

A motion of Councilmember Westerlund, seconded by President Brand, to approve staff's recommendation, *\*as amended and verbalized above*, failed, by the following vote:

|        |   |                                  |
|--------|---|----------------------------------|
| Ayes   | : | Borgeas, Westerlund, Brand       |
| Noes   | : | Baines, Olivier, Quintero, Xiong |
| Absent | : | None                             |

An unidentified employee stated employees do have ideas to make things more efficient but in his fifteen years on the job they have never been asked for recommendations/suggestions and added employees would be happy to come to the table.

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#### **UNSCHEDULED COMMUNICATIONS:**

Upon call, no one wished to be heard.

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## ADJOURNMENT

There being no further business to bring before the City Council, the hour of 6:11 p.m. having arrived and hearing no objection, President Brand declared the meeting adjourned.

**Approved** on the \_\_\_\_3rd\_\_\_\_ day of \_\_\_\_February\_\_\_\_, 2011.

\_\_\_\_\_/s/\_\_\_\_\_  
Lee Brand, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk